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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/848,916

05/04/2001

Sunao Kakizaki

HITACHI-0015

7119

7590

01/25/2006

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EXAMINER

PHAN, HANH

ART UNIT

PAPER NUMBER

2638

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/848,916	Applicant(s) KAKIZAKI ET AL.	
	Examiner Hanh Phan	Art Unit 2638	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30-32, 35 and 36 is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-18, 23-29, 33 and 34 is/are rejected.
- 7) ☒ Claim(s) 19-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to the RCE filed on 09/02/2005.
2. The indicated allowability of claims 1-15, 33 and 34 is withdrawn in view of the newly discovered reference(s) to Corke et al (US Patent No. 5,510,917) and Ramaswani et al (US Patent No. 6,650,803). Rejections based on the newly cited reference(s) follow.

Drawings

3. Figure 3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2638

5. Claims 10, 11, 16-29, 35 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

-Claim 16 recites the limitation "**the first optical signal and the second optical signal**" in line 7. There is insufficient antecedent basis for this limitation in the claim.

-Claim 16 recites the limitation "**said optical line performance monitor unit**" in line 14. There is insufficient antecedent basis for this limitation in the claim.

-Claim 16 recites the limitation "**the performance of the first optical line and the second optical line**" in lines 17 and 18. There is insufficient antecedent basis for this limitation in the claim.

-Claim 10 recites the limitation "**said switching**" in line 3. There is insufficient antecedent basis for this limitation in the claim.

-Claim 22 recites the limitation "**said second control unit**" in line 5. There is insufficient antecedent basis for this limitation in the claim.

-Claim 35 recites the limitation "**the first optical signal**" and "**the second optical signal**" in lines 3 and 5. There is insufficient antecedent basis for this limitation in the claim.

-Claim 36 recites the limitation "**the first optical signal**" and "**the second optical signal**" in lines 3 and 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3, 5, 7, 10, 13-16, 23-29, 33 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Corke et al (US Patent No. 5,510,917).

Regarding claim 1, referring to figures 2-4 and 6-9, Corke teaches a method of monitoring optical signals in a plurality of optical lines for selecting one of the optical lines, comprising:

providing at least a first optical line and a second optical line (i.e., route A and route B, Fig. 7);

initializing the first optical line and the second optical line respectively as an operational line and a protection line (i.e., route A as an operational line and route B as a protection line, Fig. 7);

determining optical strength at least in the operational line (i.e., detector 44 determines the optical strength in the route A, Fig. 7, col. 9, lines 8-65);

determining performance in the operational line and the protection line (Fig. 9, col. 9, lines 45-65);

designating the first optical line and the second optical line respectively as the protection line and the operational line based upon any combination of the optical

strength and the performance of the first optical line and the second optical line (col. 9, lines 45-65); and

storing data on the optical strength and the performance (col. 9, lines 45-65).

Regarding claim 3, Corke further teaches the optical strength is determined in both the first optical line and the second optical line (Fig. 7).

Regarding claim 5, Corke further teaches the optical strength is determined in the protection line before said designating step (Fig. 7).

Regarding claim 7, Corke further teaches the optical strength is determined in the operational line before said designating step (Fig. 7).

Regarding claim 10, Corke further teaches the optical strength is determined in the protection line after the protection line selected (Fig. 7).

Regarding claim 13, Corke teaches further comprising: repeating said determining steps c) through said designating: step e) in response to a request and reporting the stored data.

Regarding claims 14, 15, 23 and 24, Corke further teaches designating is optical switching (i.e., optical switch 48, Fig. 7) between the first optical line and the second optical line

Regarding claims 16, 25-29, 33 and 34, referring to figures 2-4 and 6-9, Corke teaches a system for monitoring optical signals in a plurality of optical lines for selecting one of the optical lines, comprising:

at least a first optical line and a second optical line (i.e., route A as an operational line and route B as a protection line, Fig. 7);

an optical line selector (i.e., optical switch 48, Fig. 7) for selecting one of the first optical line (route A) and the second optical line (route B);

a first control unit (i.e., control circuit 10, computer interface 11, CPU 12, RX 50 and network monitoring system 52, Figs. 2, 7 and 9) connected to the optical line selector (optical switch 48, Figs. 7 and 9) for generating a selection signal indicative of selecting the first optical line and the second optical line, the first control unit initializing the selection signal indicative of selecting the first optical line and the second optical line respectively as an operational line and a protection line;

an optical detector (i.e., optical detector 44, Figs. 7 and 9) connected to at least the operational line for determining optical strength in the operational line (col. 9, lines 8-65); and

a performance monitor unit (i.e., Rx 50 and network monitoring system 52, Fig. 9) connected to at least the operational line (route A) for determining performance in the operational line, wherein the first control unit further connected to the optical detector (optical detector 44) and the optical line performance monitor unit for generating the selection signal indicative of the first optical line and the second optical line respectively as the protection line and the operational line based upon any combination of the optical strength and the performance of the first optical line and the second optical line (col. 9, lines 8-65).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 4, 6, 8, 9, 11, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corke et al (US Patent No. 5,510,917) in view of Ramaswani et al (US Patent No. 6,650,803).

Regarding claims 2, 4, 6, 8, 9, 11 and 17, Corke teaches all the aspects of the claimed invention except fails to teach the performance is determined in both the first optical line and the second optical line. However, Ramaswani in US Patent No. 6,650,803 teaches the performance is determined in both the first optical line and the second optical line (Fig. 13, col. 13, lines 8-67 and col. 15, lines 29-67). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the performance is determined in both the first optical line and the second optical line as taught by Ramaswani in the system of Corke. One of ordinary skill in the art would have been motivated to do this since Ramaswani suggests in column 13, lines 8-67 and col. 15, lines 29-67 that using such the performance is determined in both the first optical line and the second optical line have advantage of allowing monitoring the signals to cause the switch to access an alternative path.

Regarding claim 18, Corke further teaches an independent one of said optical detector is connected to both the first optical line and the second optical line (Fig. 7).

Allowable Subject Matter

10. Claims 19-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and overcome 112 rejection.

11. Claims 30-32, 35 and 36 are allowed.

Response to Arguments

12. Applicant's arguments with respect to claims 1-11 and 13-36 have been considered but are moot in view of the new ground(s) of rejection.

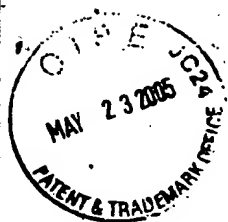
Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye, can be reached on (571)272-3078. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.


HANH PHAN
PRIMARY EXAMINER



DOCKET NO.: HITACHI-0015

Serial No.: 09/848,916

Amdt. dated May 20, 2005

AMENDMENT

Replacement Sheet

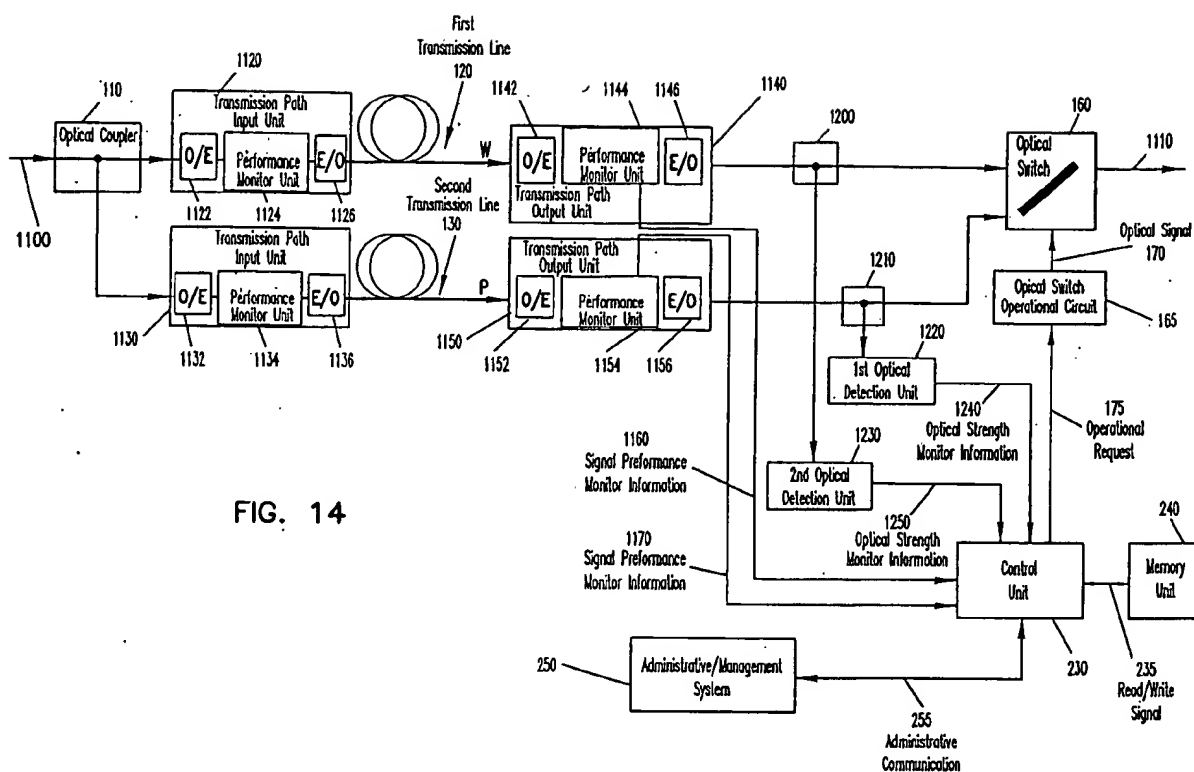


FIG. 14



Approved
01/12/06

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Serial No.: 09/848,916
Amdt. dated May 20, 2005
AMENDMENT
Replacement Sheet

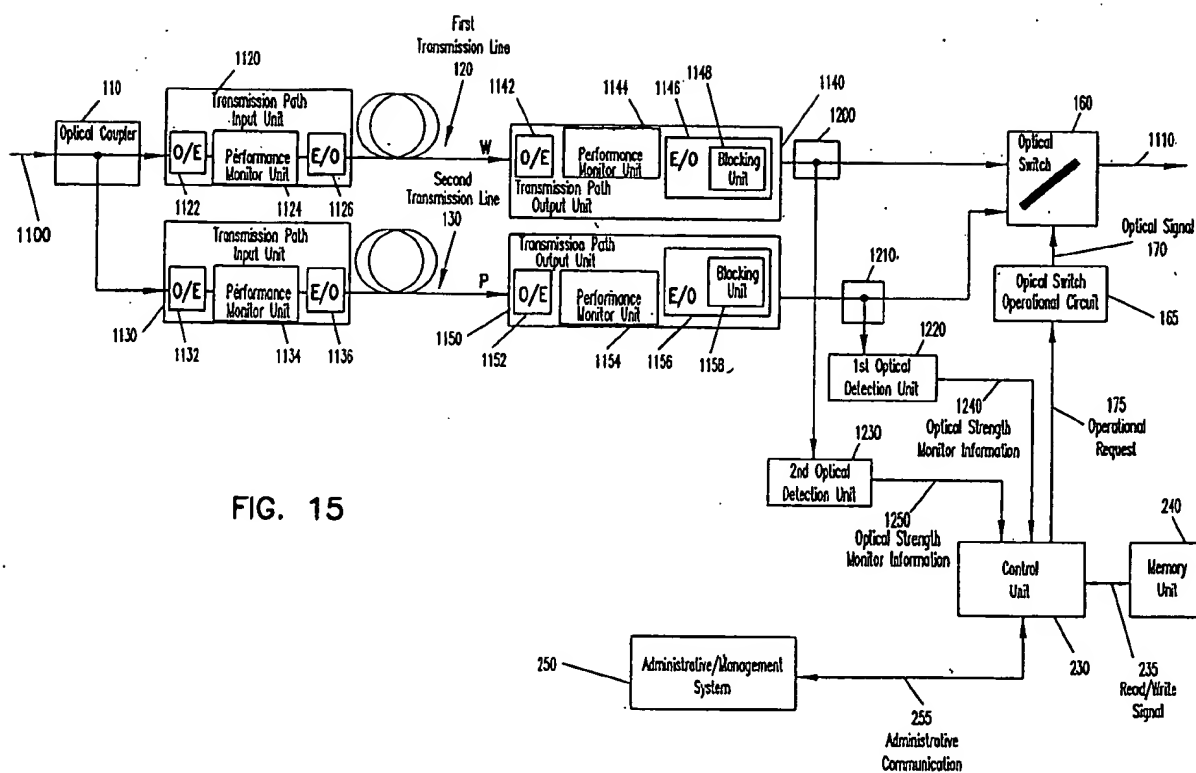
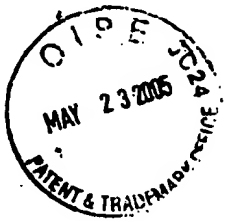


FIG. 15



Approved
H8
01/02/06

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Serial No.: 09/848,916
Amdt. dated May 20, 2005
AMENDMENT
Replacement Sheet

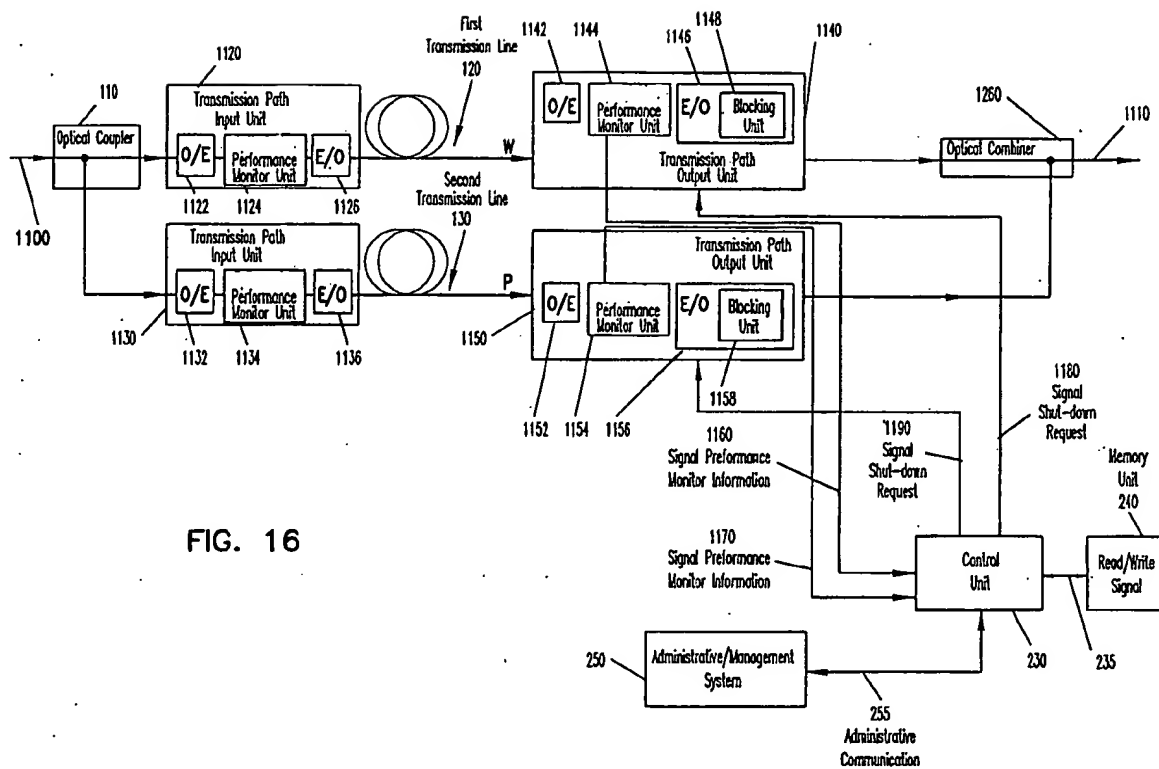


FIG. 16